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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,210	12/27/2000	Thomas R. Schmutz	6785-126	5286

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EXAMINER
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LEE, JOHN J

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 01/20/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/749,210

Applicant(s)

SCHMUTZ, THOMAS R.

Examiner

JOHN J LEE

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2 and 4-16 is/are allowed.
- 6) ☒ Claim(s) 17-19 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's arguments with respect to claims 17 – 19 have been considered but are moot in view of the new ground(s) of rejection.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 17 – 19** are rejected under 35 U.S.C. 102(b) as being anticipated by Leslie (US Patent number 5,023,930).

Regarding **claim 17**, Leslie discloses that a configurable base transceiver station (12 in Fig. 1) in a communication system (Fig. 1) having the base transceiver station located within a home cell (10 in Fig. 1) and a plurality of substantially adjacent cells, with at least one of said adjacent cells (Fig. 1) having a repeater (16 in Fig. 1) located (Fig. 1 and column 6, lines 41 – 59). Leslie teaches that a transmitter for transmitting traffic (voice channels) and control signals (control channels) to the repeater (16 in Fig. 1) (column 7, lines 42 – 68 and Fig. 1). Leslie teaches that a receiver (12 in Fig. 1) for receiving a backhaul signal (antenna (18) through antenna (14) in Fig. 1) from repeater (16 in Fig. 1) (column 6, lines 41 – 59), wherein the backhaul signal (antenna (18) through antenna (14) in Fig. 1) is transmitted at one of a plurality of discrete power levels indicative of a power level (receiving power levels from the mobile stations to booster

and the booster retransmits the selected signal strength (not above minimum power levels) to cell cite (base station)) measured from an uplink communication channel (channels from mobile stations) at the repeater (16 in Fig. 1) (see column 19, lines 40 – column 20, lines 4, Fig. 1, 4, and column 8, lines 37 - 59). Leslie also teaches that a processor (66 in Fig. 1) that is programmed to selectively configure the plurality of discrete power levels (the stored program control unit provides to overall control for booster and also measures the receiving signal strength levels on each channel (from mobile stations) and determines the channels which are not above minimum power levels and retransmits the selected signal strength to cell cite) at which the repeater will transmit the signal (see Fig. 1, 2, column 10, lines 3 – 56, and column 8, lines 37 – 59).

Regarding **claim 18**, Leslie discloses that the uplink communication channel is a channel containing signals from a mobile transceiver unit (Fig. 1 and column 8, lines 37 – 59).

Regarding **claim 19**, Leslie discloses that the processor is further programmed to use the control signal to control the power level of the mobile transceiver unit (for example, handoff situation see column 11, lines 62 – column 12, lines 9) based on the plurality of discrete power levels measured on the signal at the receiver of the base transceiver station (Fig. 1, 2, column 10, lines 3 – 56, and column 8, lines 37 – 59).

*Allowable Subject Matter*

4. Claims 1, 2, and 4 – 16 are allowed.

Claims 1, 2, and 4 – 16 are allowable over the prior art of record because a search does not detect the combined claimed elements as set forth in the claims 1, 2, and 4 – 16.

As recited in independent claims 1, 10, and 13, none of the prior art of record teaches or fairly suggests that transmitting a backhaul signal from said repeater to said base transceiver station on a backhaul communication link, wherein said backhaul signal is selectively transmitted at one of a plurality of discrete power levels, each of said discrete power levels representing a coded indication of said power level as measured by said repeater, and together with combination of other element as set forth in the claims 1, 2, and 4 – 16. Therefore, claims 1, 2, and 4 – 16 are allowable over the prior art of records.

5. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fails to disclose “the processor is further programmed to decrease the power level of the uplink channel if the backhaul signal is transmitting at a first power level, maintain the power level of the uplink channel if the backhaul signal is transmitting at a second power level, increase the power level if the backhaul signal is transmitting at a third power level, and request that the uplink channel handoff to another

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repeater or base transceiver station if the backhaul signal is transmitting at a fourth power level” as specified in claim 20.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chen et al. (US Patent number 5,832,365) discloses Communication System Comprising an Active-Antenna Repeater.

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Lovinggood et al. (US Patent number 6,615,021) discloses Transmitting Radio Frequency Signals to and from a Pager.

Haymond et al. (US Patent number 6,647,244) discloses Wireless Vehicular Repeater System.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is (703) 306-5936. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00 pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Nay Aung Maung**, can be reached on (703) 308-7745. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L.  
January 9, 2004

  
**NAY MAUNG**  
**SUPERVISORY PATENT EXAMINER**

John J Lee